

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:	:	Chapter 11
ARCAPITA BANK B.S.C.(c), <i>et al.</i> ,	:	
	:	Case No. 12-11076 (SHL)
Debtors.	:	
	:	Jointly Administered
-----X	:	

ORDER DENYING MOTION TO DISMISS CHAPTER 11 CASES

WHEREAS, Captain Hani Alsohaibi (“*Alsohaibi*”), filed a Motion dated September 24, 2012 [Dkt No. 525] (the “*Motion*”), for entry of an order dismissing the Chapter 11 Cases and to hold Arcapita Bank B.S.C.(c) and its executives liable for fraud and the Debtors filed an opposition to the Motion, dated December 10, 2012 [Dkt No. 699] (the “*Opposition*”)¹

WHEREAS, Alsohaibi has filed a proof of claim in these bankruptcy cases;

WHEREAS, the Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334;

WHEREAS, venue for this proceeding and the Motion in this district are proper pursuant to 28 U.S.C. §§ 1408 and 1409;

WHEREAS, Alsohaibi had an adequate opportunity to appear *pro se* or through counsel and be heard on the Motion under the particular circumstances, including that the Motion was first sent to the Court in August of 2012 and that a status conference on the Motion previously occurred on November 15, 2012;

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Opposition.

WHEREAS, the Motion fails provide factual or legal support for the relief requested in compliance with the Federal Rules of Evidence and the Federal Rules of Civil Procedure and, as a result, there is no admissible evidence before the Court as to the facts alleged in the Motion;

WHEREAS, even assuming *arguendo* that the facts alleged in the motion are true, the automatic stay applies to any action to be filed by Alosohaibi against the debtors;

WHEREAS, the automatic stay does not apply to any police or regulatory powers of the government of Saudi Arabia and thus these bankruptcies do not prevent Saudi authorities from conducting any investigations they deem appropriate;

Accordingly, based on the foregoing, the arguments offered at the hearing on the Motion (the “**Hearing**”), the record of these Chapter 11 Cases, and after due deliberation and sufficient cause appearing therefor and as set forth on the record at the Hearing,

IT IS HEREBY ORDERED:

1. The Motion is denied because dismissal is not in the best interests of Debtors’ estates, the creditors and other parties in interest and may be prejudicial to the interests of other parties in interest.
2. The Motion is also denied because the Motion fails to provide proper legal and admissible factual support for the relief requested, and thus the Motion fails to establish that cause exists to dismiss these Chapter 11 Cases.
3. This Court shall retain exclusive jurisdiction to hear and determine all matters arising from the claims asserted by Alsohaibi against the Debtors.

Dated: New York, New York
December 21, 2012

/s/ Sean H. Lane
THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE